

THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

Before Commissioners: Jim Robinson, Chairman  
F.S. Jack Alexander  
Rachel C. Lipman

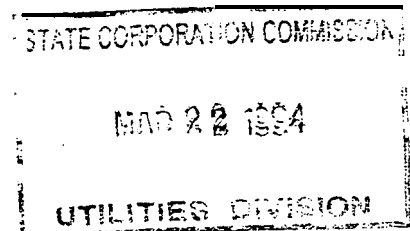
In the Matter of a General Investigation Into the )  
Adoption of Revised Rules and Regulations )  
Governing InterLATA Interexchange Carriers ) Docket No. 187,168-U  
(IXCs) and Resellers of Long Distance )  
Telecommunications Services within the State of )  
Kansas. )

ORDER

NOW, the above-captioned matter comes before the State Corporation Commission of the State of Kansas (hereinafter referred to as "Commission") on its own motion. Having examined its files and records, and being duly advised in the premises, the Commission finds as follows:

BACKGROUND:

1. On May 14, 1993, the Commission received a memorandum from Commission Staff (hereinafter referred to as "Staff") recommending modifications in the regulation of interLATA interexchange carriers (hereinafter referred to as "IXCs") and further recommending the proposed modifications be submitted to the industry and interested parties for comment.



2. On June 7, 1993, Southwestern Bell Telephone Company (hereinafter referred to as “SWBT”) filed a petition for leave to intervene with the Commission. SWBT stated it provides some telecommunications services that are the same as, or similar to, those provided by the IXCs in the above captioned proceeding. Further, SWBT noted it could be adversely affected by a Commission order in this proceeding and its interests would not be adequately represented by any other party.

3. On July 1, 1993, the Commission issued an Order granting SWBT leave to intervene and submitting Staff’s recommendations to industry and interested parties for comment.

4. On or about July 26, 1993, initial comments were filed by the Telecommunications Resellers Association (hereinafter referred to as “TRA”), AT&T Communications of the Southwest, Inc. (hereinafter referred to as “AT&T”), LDDS Communications, Inc. (hereinafter referred to as “LDDS”), MCI Telecommunications Corporation (hereinafter referred to as “MCI”), CommuniGroup, Inc. (hereinafter referred to as “CGI”), and Sprint Communications Company, L.P. (hereinafter referred to as “Sprint”).

5. On or about August 26, 1993, reply comments were filed by AT&T and CGI. The comments and reply comments were generally supportive of Staff’s recommendations, although some companies had concerns with specific recommendations.

Current Regulatory Framework:

6. Although the Commission has previously distinguished among AT&T, other IXC's and resellers, the basic manner of regulation has been similar for all. The primary differences relate to the amount of information required to be filed by the companies, the time period for Commission action, and the degree of Staff review. However, the following discussion of regulatory framework refers to all non-local exchange company (hereinafter referred to as "non-LEC") interexchange providers, including IXC's and resellers.

7. In order to be certificated to provide telecommunications services in the state, an IXC must file an application for certification with the Commission pursuant to K.S.A. 66-131. Along with the application, the IXC must send proof of registration with the Kansas Secretary of State, a copy of a sample customer bill, promotional materials to be used in the state, financial statements for the last three years (including a balance sheet and income statement) and tariffs. After the IXC has received certification, the IXC must file annual reports with the Commission.

8. When an IXC proposes to change rates, it files revised tariffs for Commission approval pursuant to K.S.A. 66-117. The revised tariffs are docketed and assigned to Staff for review and recommendation. Staff forwards its recommendation to the Commission in the form of a memorandum. Filings to change rates or introduce new services must be determined or suspended within 30 days. If the IXC (excluding AT&T) files a tariff mirroring an interstate tariff, the IXC

may -- unless required otherwise by Commission order -- request an effective date of fourteen days from the date of filing.

9. AT&T operates under an alternative regulatory framework established in Docket No. 167,493-U. AT&T has the ability to request an effective date of twenty days from the date of filing, for certain rate changes for services other than Message Telephone Service (hereinafter referred to as “MTS”). MTS rates are capped. Rates for “Other Services” may be set no lower than incremental cost (access costs plus billing and collection costs plus internal network costs). (Docket No. 167,493-U)

10. In its original memorandum, Staff indicated numerous developments led Staff to question whether the current method of regulation is still necessary. The interLATA market has been open to competing long distance carriers for sometime. Likewise, the Commission has recently taken the first steps to opening the intraLATA market to competition. In addition, Staff stated the number of resellers to be certificated in the state has increased significantly. Over fifty IXC's have received certificates to provide service in Kansas. Although having many competitors does not guarantee a competitive market, it does provide some assurance customers will have choices among service providers. Further, Staff noted more of the state is being converted to equal access, enhancing the customer's ability to utilize the carrier of choice.

11. Staff's original memorandum indicated the task of evaluating and determining appropriate rate levels has also become problematic. The Commission's April 30, 1984 Order in Docket No. 127,140-U, issued at a time when

competitors primarily resold AT&T services, determined full rate of return regulation of IXC's would not be necessary as long as the company's rates were at levels at or below those of the underlying common carrier. Staff stated comparing rates is often difficult because the industry has greatly evolved and the IXC's offer a greater variety of more specialized services.

12. As a result of the changes occurring in the marketplace, Staff recommended modifications to the regulatory framework for the IXC's (including resellers). Staff proposed to submit these modifications to the industry and interested parties for comment and reply comments. Staff indicated the recommended modifications would not unduly inconvenience the public and would reduce the costs of regulation. Further, the modifications would improve the efficiencies of Staff and the IXC's. Staff proposed to include AT&T in this new regulatory approach.

## FINDINGS AND CONCLUSIONS

### A. Certification

Staff recommended certification applications be simplified and the current provision requiring review of financial statements be eliminated if the applicant/IXC does not collect deposits. Staff proposed the new certification form request the following information:

- a. Complete name of the company;
- b. Address;

- c. Telephone number;
- d. 800 Customer Service number;
- e. Officers;
- f. State of Incorporation;
- g. Registration with the Kansas Secretary of State, if applicable; and
- h. Tariffs.

Sprint recommended two additional questions be added to the application for certification: (1) description of the type of service to be offered, and (2) the name and phone number of a Commission/Industry Relations contact person. AT&T requested the Commission clarify that currently certificated IXC's will not have to make further application to retain certification.

The Commission finds the recommendations of Staff, Sprint and AT&T provide the Commission with sufficient information without being overly burdensome and are therefore reasonable. The Commission concludes the recommendations of Staff, Sprint and AT&T shall be adopted by the Commission.

#### B. Tariffs

With regard to tariffs, Staff made four recommendations:

1. Rate tariffs may be simplified by containing abbreviated descriptions of the services and prices if desired by the company. In practice, Staff assumed the companies will desire to spell out all the terms and conditions of service.
2. IXC's should remain obligated to follow the Commission's current rules and regulations and standards for IXC's regarding billing practices (Docket Nos. 120,408-U, and 127,140-U), late payment charges, and any future orders of the

Commission. These rules and regulations may be reflected in the tariffs or incorporated by reference in the tariffs.

3. The Commission should determine that good cause exists, pursuant to K.S.A. 66-117, to allow rate changes and introduction of new services to become effective seven calendar days following receipt of the tariff revisions by the Executive Secretary of the Commission.

A Staff member would review the filing for preferential pricing and/or deaveraging or any other obvious violation of Commission rules or policy. It is not contemplated that rates would be examined in detail in this review, unless the Staff member believed the rate change to be unreasonable or unusual in some manner. If the tariff filing is acceptable for filing, it would be docketed and stamped “Accepted for Filing”, with the date and docket number affixed. A letter of transmittal to the company would accompany its copy of the stamped tariff sheet(s). Filings stamped “Accepted for Filing” would not require other formal Commission action and would be effective seven days from the date of filing if no other effective date is specified. Staff retained the right to request the Commission suspend the effective date of a proposed tariff within seven days after filing if Staff believed further investigation is necessary.

4. The Commission should retain its authority to review the tariffs and associated rates and rate changes either on complaint and/or on its own motion.

### Tariff Changes Optional

AT&T, CGI, and LDDS requested the Commission clarify whether the tariff changes would require the filing of new tariffs or whether the streamlined tariffs were optional. MCI assumed the streamlined tariffs were optional.

The Commission finds the filing of streamlined tariffs, as opposed to the fully detailed tariffs, is optional.

### 7-Day Effective Period for Tariffs

AT&T supported Staff's proposal for a seven day effective period.

LDDS and CGI recommended Staff could suspend the seven day interval for an interim delay period, such as five days, to correct a filing. If the carrier responds to remedy the flaw, the seven day interval would be instituted. If not, the traditional 30 day period would be instituted. The IXC should also be notified so it can remedy concerns before the 30 days.

Staff's recommendation for a seven day notice period is obviously much shorter than required by K.S.A. 66-117. However, in light of the competitive environment, the Commission finds there is good cause to allow changes to the proposed seven day notice and finds such period is reasonable in light of the streamlined review process. Therefore, the Commission adopts Staff's recommendation. However, in order to provide Staff and the Commission the maximum timing flexibility to review or investigate a tariff filing, if necessary, the Commission will not further restrict the deadlines specified in K.S.A. 66-117 as it



relates to the process of suspending tariff filings. The Commission recognizes the process whereby a tariff can become effective before the suspension period terminates.

#### Criteria for Tariff Suspension

CGI and LDDS commented there is no criteria for Staff to utilize when determining whether to request the Commission suspend the filing for 30 days. CGI recommended the rules be modified to require just cause for Staff to suspend a tariff revision.

MCI thought the Commission should establish a standard to guide Staff in determining whether to recommend suspension. MCI suggested the following language:

Suspensions of IXC tariff filings should be made only when the proposed tariffs are clearly inconsistent with established Commission rules or policies or applicable law, or are clearly inconsistent with prevailing competitive conditions.

CGI supported MCI's language, except for the word "clearly".

Staff recommended the Commission accept Staff's recommendation as originally proposed to allow Staff a maximum of flexibility to review tariffs and propose further investigation. Staff stated it could not foresee all the potential reasons for recommending suspension but believed most filings would be approved within seven days.

The Commission shall not require any specific criteria for suspension. Because the circumstances in the telecommunications industry are changing, it would be impossible and unwise to attempt to determine the potential reasons for suspending a tariff for further investigation in advance. The Commission adopts Staff's recommendation with regard to that issue.

The Commission also notes Staff's suggestion the Commission retain the authority to review tariffs and changes on complaint or on the Commission's own motion. Of course, this is a statutory obligation binding on the Commission. The Commission is mindful of its duty to ensure rates are just and reasonable. Pursuant to this Order, changes in the IXC tariffs will be allowed under a quicker and more streamlined process. However, the fact that proposed tariffs are allowed to go into effect during a more compressed time frame does not insulate the tariffs from further review. If facts or concerns come to light which suggest certain tariffs are unjust and unreasonable, the Commission will fully investigate those tariffs.

#### References to Other Tariffs

AT&T recommended the Commission allow an IXC to reference portions of its interstate tariff as long as simple service description and prices are expressly stated in the intrastate tariff.

CGI recommended that intrastate tariffs be able to reference other tariffs and that copies of interstate tariffs should be provided to Staff or customers on request at no charge by the carrier.

Staff recommended the Commission adopt AT&T's and CGI's recommendation that tariffs be provided upon request at no charge. Moreover, Staff recommended copies of any tariff incorporated by reference in Kansas tariffs shall automatically be provided to Staff.

The Commission is cognizant that K.S.A. 66-1,190 requires telecommunications public utilities to publish and file rates with the Commission. The issue raised by Staff's recommendation is whether interstate tariffs incorporated by reference in Kansas intrastate tariffs must literally be filed with the Commission. Many IXCs provide the same services on an intrastate basis as they provide on an interstate basis and seek to mirror their interstate tariffs for intrastate purposes. Interstate tariffs are quite voluminous and frequently revised so that the updating of such tariffs would be an administratively burdensome task. The Commission believes the intent behind K.S.A. 66-1,190 is to ensure the Commission and customers may determine all the terms and conditions associated with the provision of a particular service when necessary. This purpose would seem to be achieved without having interstate tariffs literally on file with the Commission. Therefore, the Commission finds IXCs may incorporate the interstate tariffs by reference in the intrastate tariffs and such incorporation by reference is in substantial compliance with K.S.A. 66-1,190, as long as simple service description and prices are expressly stated in the intrastate tariff and as long as the IXCs make a copy of the interstate tariff available to Staff or customers on request.

### Promotions of Tariffed Rates

Currently, IXC's can offer a promotion simply by informing the Commission of such promotion through a letter containing the terms and dates of the promotion. Promotions may begin immediately and run no longer than one year. AT&T is specifically prohibited from offering promotions designed for one customer.

AT&T recommended promotions become effective on a one day notice and the order specify the filing need only contain the name of the affected services and the approximate dates of promotion.

CGI had three recommendations regarding promotions. First, if promotions are to be allowed on a one day notice, the promotions should be limited to 30 days in length. Second, promotions longer than 30 days should take 30 days to process. Third, a company could do both a short term and long term promotion in one filing (one day and 30 days).

Staff recommended the Commission retain the current policy on promotions with a few additions: (1) promotions may not drive the effective rate below the incremental cost of providing that service; (2) the IXC's should provide a reasonably accurate description of the promotion as well as its beginning and ending dates; and (3) promotions may not be designed for one customer. Staff stated there was no apparent reason to regulate promotions more heavily than it does presently.

The Commission finds, no facts for more stringent regulation being presented, Staff's recommendation is reasonable and shall be adopted.

## C Rates

With regard to rates, Staff originally made the following proposal:

1. Proposed rates will generally be presumed reasonable absent complaint. Geographic deaveraged (including separate interLATA and intraLATA), unduly discriminatory or preferential rates will not be permitted.

2. AT&T may not introduce or reprice existing services to a level below access and billing and collection costs. Cost studies will not be required at the time of filing. However, such studies shall be retained by the company in order to verify costs on complaint and/or on Commission request.

AT&T supported Staff's proposal regarding the presumption of reasonableness involving all competitive interLATA, interexchange rates. AT&T recommended the Commission not individually review each proposed rate, absent complaint.

CGI opposed this language arguing Staff should be able to act on its own initiative to review rates because others will not have the time to do so.

With regard to the recommendation of different regulatory treatment for AT&T, AT&T did not object to Staff's proposals, but thought it unnecessary to require AT&T to maintain cost studies. AT&T argued it should not be the subject of increased regulatory scrutiny and also assumed the prohibition against deaveraged and unduly discriminatory rates applied to all IXC's.

TRA supported Staff's recommendation that AT&T be prohibited from pricing below the sum of access and billing and collection costs.

LDDS and CGI recommended AT&T should be required to charge above its costs for access and billing and collection plus network costs. Both companies were concerned that AT&T, as a dominant carrier, could resort to predatory pricing.

CGI recommended the Commission retain the rate base, rate-of-return regulatory option for AT&T and expressed its support for differentiation in regulatory treatment. In support of its position, CGI argued AT&T is the dominant carrier, AT&T has a cost advantage, AT&T is able to utilize end-office trunking and AT&T's revenues continue to grow in spite of its regulatory burden.

The Commission finds AT&T's rate floor has been established at incremental costs (access plus billing and collection) since June 14, 1990. (Docket No. 167,493-U) Although network costs might theoretically need to be included to prevent predatory pricing, such costs are relatively small and the benefits of requiring calculation and review of such network costs would not appear to warrant the additional burdens. Concerns about predatory pricing by AT&T have lessened over the years and AT&T is unlikely to be successful in diminishing competition by predatory pricing just for Kansas intrastate revenues. Further, imposition of Staff review does not foreclose competitors from bringing a complaint before the Commission or initiating antitrust proceedings.

Although the Commission believes sufficient competition among **interLATA** service providers exists to warrant further relaxation of regulation, it is important to

note the Commission is not finding the market is fully competitive to the extent that no regulation is warranted. Clearly, some regulatory restrictions will continue to apply. For instance, AT&T's assumption is correct that the prohibition against deaveraged and unduly discriminatory rates applies to all IXCs. As noted above, concerns about AT&T's dominance and ability to engage in predatory pricing or other anticompetitive behavior has decreased so that fewer restrictions on AT&T's ability to change rates are necessary. On the other hand, the Commission is concerned about the recent trend for the major IXCs to increase rates in lockstep. Although the Commission is amenable to the regulatory changes addressed in this Order, the Commission fully expects that proposed increases in rates to be justified by the IXCs and to be scrutinized by Staff. The Commission will not hesitate to suspend such proposed increases for further investigation when warranted. However, despite these reservations, the Commission finds Staff's original recommendations are reasonable and shall be adopted.

#### D. Customer Notice

Staff originally recommended customer notice of rate increases shall be provided to customers via a bill insert, bill message or direct mail, within 30 days following the filing of rate increases with the Commission. The notice must contain the name of the service, a reasonably accurate description of the rate change, the effective date of the change, and a contact number for customer inquiry. A copy of the notice must be retained by the company to ensure notice may be verified on

customer complaint and/or Commission request. The Commission would retain its authority to reject notice or require additional notice if, on complaint and/or on Commission investigation, the notice is found to be improper or inadequate.

AT&T recommended the Commission not require notice of rate changes. It further recommended that, if notice was deemed necessary: (a) it should be acceptable to give it before a filing, and (b) newspaper notice should be an alternative form of notice.

LDDS supported Staff's proposal to send customer notice within 30 days after filing and suggested an alternative of notifying only the affected customers after the filing has been approved. LDDS also proposed either the Commission or Staff have the discretion to waive notice requirements when the net effect of the filing is not an increase in rates.

MCI made several suggestions: (a) the 30 day period within which notice must be given should run from the effective date of the tariff, not the filing date; (b) the Commission should allow, on a case-by-case basis and for good cause the IXC to lengthen the 30 day period because LEC billing requires longer lead times; (c) notice should be required only when the net effect is an increase in rates; (d) one notice option should be direct notification by IXC sales agents; and (e) the Commission should consider newspaper notices as an alternative.

CGI supported: (a) giving notice after a proposed tariff is filed; (b) newspaper notice as an alternative; (c) direct contact of customers as an option; and (d) waiving



of the notice if the net effect of the filing is a decrease in rates (or give Staff discretion to do so on a case-by-case basis).

Sprint argued customer notice was unnecessary, noting 25 states have eliminated notice and others allow flexibility. Sprint made three recommendations if notice was deemed necessary: (a) require notice only when the rate changes lead to a net rate increase (b) only require notice if the net rate increase is ten percent or greater, and (c) allow IXC's the flexibility to choose the most effective and least costly method of notice - such as the legal section in the three statewide newspapers.

Staff expressed concerns regarding the adequacy of notice coverage by newspaper. Likewise, Staff also stated problems existed with bill inserts, bill messages and direct mail. Bill inserts can be quite expensive and cannot always be done within 30 days. Bill messages can be set up fairly quickly at much less cost, but they will only reach customers who have usage that month. If, for example, a Sprint customer made no interLATA calls in a particular month, (s)he would not get the message. There can also be a problem trying to reach some customers, such as operator services customers, who utilize the services largely from transient locations. Direct mail and other alternatives can also be expensive or time consuming.

Staff explored the idea of a yearly Commission press release indicating specific rates the certificated IXC's would charge for specified phone calls. This information could be requested yearly by Staff or requested as part of the annual report. Staff

discussed this idea with the intervenors and all thought it to be better than Staff's original notification proposals.

The Commission finds customer/ratepayer information is essential to informed customer choice in a competitive environment. Therefore, the Commission finds IXC's shall provide notice within 30 days after the effective date of a rate increase if: the changes to a particular service has a net result of a five percent or greater increase and impacts ten percent or more of the of the company's customers for that service. Notice is required if the percentage of customers impacted cannot be determined, but a five percent rate impact is possible depending on usage characteristics.

The Commission notes this new customer notification procedure is not meant to be abused by simply splitting up a desired rate increase into small increments. Should a pattern of repetitive, below-five-percent rate increases be noted which appear designed to circumvent the customer notice provisions, Staff may request that customer notice be given lumping all the recent changes together.

The Commission finds notice may be given by bill insert, bill message, direct mail or by newspaper notice if it is a display advertisement at least two inches high by two columns wide in newspapers providing coverage in at least 90 percent of the company's service area.

The Commission adopts Staff's proposal to provide an annual press release indicating specific rates the certificated IXC's would charge for specified phone calls. The IXC's shall respond to Staff's annual survey requesting the IXC's to calculate their

charges for specified calls. The results of each survey will be assembled by Staff and the results issued in a statewide press release each year. Appendix B contains a sample of what the Commission may request as well as an example of how the information may be presented.

#### E. Customer Deposits

Staff originally proposed to eliminate the practice of IXC's charging customer deposits because the financial information to assess the viability of an IXC would no longer be required for companies undergoing streamlined certification review. However, if an IXC desires to collect customer deposits, additional audited financial information demonstrating the financial viability of the IXC would need to be provided to the Commission.

TRA was not opposed to the elimination of deposits in so far as IXC's may continue to reject potential subscribers with poor or questionable ability to pay. TRA additionally wanted the Commission to determine a prepayment for a debit card is not a deposit.

AT&T and CGI supported Staff's position. Sprint argued currently certificated IXC's should be allowed to continue to charge customer deposits and that IXC's should demonstrate financial viability before collecting deposits. LDDS espoused no position on deposits, but noted deposits can be useful if a customer demonstrates a poor credit history. LDDS commented the Commission should continue to review financial and operational capabilities of IXC's to protect the public.

The Commission adopts Staff's original deposit recommendation with modifications. All presently certificated IXC's with tariffs allowing the IXC to collect customer deposits are allowed to retain the practice of collecting the deposits. Presently certificated companies without the authority to collect deposits specified in the companies' tariffs or companies' filing for certification and requesting deposit language should file audited income statements and balance sheets for the last three years. Deposits will not be authorized unless the IXC has experienced positive earnings in each of the last three years of operation as documented by the financial statements. On October 4, 1993, the Commission determined that a prepayment for a debit card does not constitute a customer deposit. (Docket No. 93-STCC-409-C) Nothing in this Order changes the Commission's previous finding.

#### F. Annual Reports

Kansas statutes require public utilities to file annual reports with the Commission each year. (K.S.A. 66-123) Staff recommended the Commission simplify the required reports for IXC's to include the company's name, address and telephone number as well as a contact person, the number of Kansas customers and intrastate revenues.

All intervenors were generally supportive of Staff's recommendations. AT&T commented it is difficult, if not impossible, to calculate the number of Kansas customers because some people use AT&T services even though they might not be presubscribed to that company. Both AT&T and Sprint stated the number of

customers does not provide useful information and should not be required in the annual report. Staff's revised recommendations clarified the number of customers to be reported should include only presubscribed customers.

The Commission adopts Staff's revised recommendation. The Commission recognizes the number of presubscribed customers would be the most meaningful information to be provided. Therefore, the Commission determines the IXC's annual report should include the number of Kansas customers presubscribed to the IXC as of December 31 of the reported year.

#### G. Miscellaneous Issues

AT&T requested the Commission determine that rate base, rate-of-return regulation will no longer be imposed on IXCs. AT&T also requested the Commission to determine that depreciation rates need not be filed by IXCs and IXCs need not maintain state specific regulatory books of account for Kansas intrastate revenues.

During the last ten years in which the interLATA market has become increasingly competitive, the Commission has not needed to examine the IXC's rates and earnings under a traditional rate base, rate-of-return approach. Instead of focussing on total company earnings, the Commission has been primarily concerned with the reasonableness of individual service rates, terms and conditions. The Commission does not anticipate there will need to be a change in this regulatory approach, in absence of a major change in circumstances. Consequently,

AT&T's request for an explicit finding that IXC's will no longer be subject to rate base, rate-of-return regulation is somewhat superfluous. However, to the extent such a finding is necessary to reduce or eliminate various reporting requirements, the Commission does so. However, the Commission may find it desirable to use rate base, rate-of-return results or other methods of evaluation for reviewing the reasonableness of any IXC rates for specific services. Further, the Commission finds depreciation rates need not be filed by IXC's and IXC's shall not be required to maintain state specific regulatory books of account for Kansas intrastate operations.

AT&T also requested the Commission generally eliminate miscellaneous regulatory requirements imposed by previous Orders, which are no longer consistent with the new regulatory structure; especially 91-AT&T-005-TAR (which requires AT&T to maintain a record of the number of One Line WATS customers by quarter) and 91-AT&T-344-TAR (which requires AT&T to maintain a quarterly record of the number of jurisdictional Distributed Network Service (hereinafter referred to as "DNS") customers along with a record of the service and the service provider each customer used prior to subscribing to DNS).

The Commission finds those portions of previous Orders, including Dockets No. 91-AT&T-005-TAR, 91-AT&T-344-TAR and 167,493-U requiring AT&T to track various data are no longer appropriate and are no longer required. Any questions between Staff and AT&T that may arise concerning specific requirements of previous Orders will be determined on a case-by-case basis.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

Revised rules and regulations governing IXC's and resellers should be adopted as set out above.

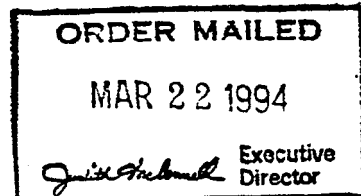
The new regulatory model for interLATA IXC's as herein determined by the Commission is attached as Appendix A.

Any party may file a petition for reconsideration within 15 days of the date this Order is served. If service is by mail, service is complete upon mailing and three days may be added to the above time frame.

The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders as it may deem necessary.

Robinson, Chmn.; Alexander, Corn.; Lipman, Corn.

Dated: MAR. 21 1994



JUDITH McCONNELL  
EXECUTIVE DIRECTOR

DAB/smd

## APPENDIX A

### Certification:

The new certification form requires the following information:

- a. Complete name of company, including d/b/a name
- b. Address
- c. Telephone number
- d. 800 customer service number
- e. Officers
- f. State of incorporation
- g. Registration with the Kansas Secretary of State, if applicable.
- h. Tariffs
- i. Description of the type of service to be offered
- j. Name and phone number of the Commission/Industry Relations contact person.

### Tariffs:

1. At the IXC's option, rate tariffs may be pared down to simplified descriptions of the services and prices if desired by the IXCs. In practice, staff assumes the IXCs will desire to spell out all the terms and conditions of service.

2. IXCs may reference portions of their interstate tariff as long as simple service description and prices are expressly stated in the intrastate tariff. IXCs shall provide interstate tariffs on staff or customer request at no charge.

3. IXCs would be obligated to follow the Commission's current rules, regulations and standards for IXCs regarding billing practices (Docket Nos. 120,408-U, and 127,140-U), late payment charges, and any future orders of the Commission. These rules and regulations may be specifically addressed or incorporated by reference in the tariffs.

4. Rate changes and introduction of new services may become effective seven calendar days following receipt of the tariff revisions by the Executive Secretary of the Commission.

5. A staff member would review the filing for preferential pricing and/or deaveraging or any other obvious violation of Commission rules or policy. It is not



contemplated that rates would be examined in detail in this review, unless the staff member believed the rate change to possibly be unreasonable or unusual in some manner. If the tariff filing is acceptable for filing, it will be docketed and stamped "Accepted for Filing", with the date and docket number affixed. A letter of transmittal to the IXC would accompany the copy of the stamped tariff sheet(s) returned to the IXC. Filings which are stamped "Accepted for Filing" will not require further formal Commission action and will be effective seven days from the date of filing if no other effective date is specified. Staff may request the Commission suspend the effective date of a proposed tariff within seven days after filing if staff believes further investigation is necessary. If the filing is suspended, the Commission will act as quickly as possible to resolve the problem. It is possible for a filing to be stamped "Accepted for Filing" and become effective before the suspension period expires.

6. The Commission retains the authority to review the tariffs, associated rates and rate changes on complaint and/or on its own motion.

7. IXCs may offer a promotion simply by informing the Commission via a letter containing a reasonably accurate description of the promotion as well as its beginning and ending dates of the promotion. Promotions may begin immediately on receipt of the letter and run no longer than one year. No promotions may be designed for one customer or drive the effective rate below the incremental cost of providing that service.

#### Rates:

1. AT&T may not introduce or reprice existing services to a level below the sum of access and billing and collection costs. Cost studies will not be required at the time of filing rate changes. However, such studies shall be retained by AT&T to verify costs on complaint and/or on Commission request.

Proposed rates will generally be presumed reasonable absent complaint. Geographic deaveraged (such as separate interLATA and intraLATA rates), unduly discriminatory or preferential rates will not be permitted.

#### Customer Notice:

IXCs shall provide customer notice on or before 30 days after the effective date of a rate increase if: (a) the change(s) to a particular service has a net result of a 5 percent or greater increase, and (b) the change(s) to a particular service impacts 10

percent or more of the of the IXCs' customers for that service. Notice is required if the percentage of customers impacted cannot be determined, but a five percent rate impact is possible, depending on usage characteristics.

This customer notification procedure shall not be circumvented by dividing a desired rate increase into small increments. Should a pattern of repetitive, below-five-percent rate increases be noted which appear designed to circumvent the customer notice provisions, the staff may request the IXC provide customer notice of the rate change impact by calculating the sum all the recent changes.

Notice may be given by bill insert, bill message, direct mail or by newspaper notice if it is a display advertisement at least two inches high by two columns wide in newspapers providing coverage in at least 90 percent of the company's service area.

IXCs shall respond annually to a survey involving calculation of the IXCs' charges for specified calls. The results of each survey will be assembled by staff and the results issued in a statewide press release.

#### Customer Deposits:

Because financial information to assess the viability of an IXC would no longer be required for companies undergoing streamlined certification review, deposits will not generally be allowed. All currently-certificated IXCs with presently approved tariffs authorizing the IXC to collect deposits are allowed to retain the practice of collecting deposits. All currently-certificated IXCs without tariffs authorizing collection of deposits or IXCs filing for certification, shall be required to file income statements and balance sheets for the last three years if the IXC desires authorization to collect deposits. Deposits will not be authorized for these IXCs unless they have experienced positive earnings in each of the last three years of operation as documented by the financial statements. No deposits will be authorized for IXCs with less than three years of operational experience.

A prepayment for a debit card is not a deposit.

#### Annual Reports:

At a minimum, IXCs' annual reports will contain the IXCs' name, address, telephone number, contact person, intrastate revenues and the number of presubscribed Kansas customers as of December 31 of the reported year.

Miscellaneous:

Rate base, rate-of-return regulation will no longer be imposed on IXC's on a total company basis. Depreciation rates need not be filed by IXC's and IXC's are not required to maintain state specific regulatory books of account for Kansas intrastate revenues. However, the staff or Commission may still find it desirable to use rate base, rate-of-return results or other methods for reviewing the reasonableness of any IXC rates for specific services. Those portions of previous orders, including Dockets No. 91-AT&T-005-TAR, 91-AT&T-344-TAR and 167,493-U requiring AT&T to track various data are no longer appropriate and are no longer required. The Commission is aware that questions between staff and AT&T may arise concerning specific requirements. Those specific issues will be determined by the Commission on a case-by-case basis.